

Adopted	Rejected
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COMMITTEE REPORT

YES:	9
NO:	0

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred Senate Bill 103, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 2, between lines 11 and 12, begin a new paragraph and
- 2 insert:
- 3 "SECTION 2. IC 35-47-2.5-8, AS ADDED BY P.L.17-1997,
- 4 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 NOVEMBER 30, 1998]: Sec. 8. (a) Except as otherwise provided in
- 6 this section, the state police department may not maintain records in
- 7 any form, including a computer data base, longer than thirty (30) days
- 8 after a dealer's request for a criminal history check concerning a buyer
- 9 or transferee who is not found to be prohibited from possessing and
- 10 transporting a firearm under state or federal law.
- 11 (b) A log of requests made to the state police department may be
- 12 maintained for not more than twelve (12) months, if the log consists
- 13 only of:
- 14 (1) the name of the purchaser;

- (2) the dealer identification number;
- (3) the unique approval number; ~~and~~
- (4) the transaction date; ~~and~~
- (5) a record indicating that the fee collected by the dealer under section 11 of this chapter has been transferred to the state police department.**

SECTION 3. IC 35-47-4-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 5. (a) As used in this section, "serious violent felon" means a person who has been convicted of:**

- (1) committing a serious violent felony in:**
 - (A) Indiana; or**
 - (B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or**
- (2) attempting to commit or conspiring to commit a serious violent felony in:**
 - (A) Indiana as provided under IC 35-41-5-1 or IC 35-45-5-2; or**
 - (B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.**

(b) As used in this section, "serious violent felony" means:

- (1) murder (IC 35-42-1-1);**
- (2) voluntary manslaughter (IC 35-42-1-3);**
- (3) reckless homicide (IC 35-42-1-5);**
- (4) battery as a Class B felony (IC 35-42-2-1(a)(4)) or Class C felony (IC 35-42-2-1(a)(3));**
- (5) aggravated battery (IC 35-42-2-1.5);**
- (6) kidnapping (IC 35-42-3-2);**
- (7) criminal confinement (IC 35-42-3-3);**
- (8) rape (IC 35-42-4-1);**
- (9) criminal deviate conduct (IC 35-42-4-2);**
- (10) child molesting (IC 35-42-4-3);**
- (11) sexual battery as a Class C felony (IC 35-42-4-8);**
- (12) robbery (IC 35-42-5-1);**

- (13) carjacking (IC 35-42-5-2);
- (14) arson as a Class A felony or Class B felony (IC 35-43-1-1(a));
- (15) burglary as a Class A felony or Class B felony (IC 35-43-2-1);
- (16) assisting a criminal as a Class C felony (IC 35-44-3-2);
- (17) resisting law enforcement as a Class B felony or Class C felony (IC 35-44-3-3);
- (18) escape as a Class C felony (IC 35-44-3-5);
- (19) trafficking with an inmate as a Class C felony (IC 35-44-3-9);
- (20) criminal gang intimidation (IC 35-45-9-4);
- (21) stalking as a Class B felony or Class C felony (IC 35-45-10-5);
- (22) incest (IC 35-46-1-3);
- (23) dealing in cocaine or a narcotic drug (IC 35-48-4-1);
- (24) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
- (25) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
- (26) dealing in a schedule V controlled substance (IC 35-48-4-4).

(c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Class B felony.

SECTION 4. IC 35-48-4-6, AS AMENDED BY P.L.65-1996, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) A person who, without a valid prescription or order of a practitioner acting in the course of his professional practice, knowingly or intentionally possesses cocaine (pure or adulterated) or a narcotic drug (pure or adulterated) classified in schedule I or II commits possession of cocaine or a narcotic drug, a Class D felony, except as provided in subsection (b).

(b) The offense is:

(1) a Class C felony if:

- (A) the amount of the drug involved (pure or adulterated) weighs three (3) grams or more; or
- (B) the person in possession of the cocaine or narcotic drug

1 **was also in possession of a firearm (as defined in**
 2 **IC 35-47-1-5);**

3 (2) a Class B felony if the person in possession of the cocaine or
 4 narcotic drug possesses less than three (3) grams of pure or
 5 adulterated cocaine or narcotic drug:

6 (A) on a school bus; or

7 (B) in, on, or within one thousand (1,000) feet of:

8 (i) school property;

9 (ii) a public park; or

10 (iii) a family housing complex; and

11 (3) a Class A felony if the person possesses the cocaine or
 12 narcotic drug in an amount (pure or adulterated) weighing at least
 13 three (3) grams:

14 (A) on a school bus; or

15 (B) in, on, or within one thousand (1,000) feet of:

16 (i) school property;

17 (ii) a public park; or

18 (iii) a family housing complex.

19 SECTION 5. IC 35-50-2-2, AS AMENDED BY P.L.220-1997,
 20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 1998]: Sec. 2. (a) The court may suspend any part of a
 22 sentence for a felony, except as provided in this section or in section
 23 2.1 of this chapter.

24 (b) With respect to the crimes listed in this subsection, the court
 25 may suspend only that part of the sentence that is in excess of the
 26 minimum sentence:

27 (1) The crime committed was a Class A or Class B felony and the
 28 person has a prior unrelated felony conviction.

29 (2) The crime committed was a Class C felony and less than seven
 30 (7) years have elapsed between the date the person was
 31 discharged from probation, imprisonment, or parole, whichever
 32 is later, for a prior unrelated felony conviction and the date the
 33 person committed the Class C felony for which the person is
 34 being sentenced.

35 (3) The crime committed was a Class D felony and less than three
 36 (3) years have elapsed between the date the person was
 37 discharged from probation, imprisonment, or parole, whichever
 38 is later, for a prior unrelated felony conviction and the date the

person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

- (A) murder (IC 35-42-1-1);
- (B) battery (IC 35-42-2-1) with a deadly weapon;
- (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
- (D) kidnapping (IC 35-42-3-2);
- (E) confinement (IC 35-42-3-3) with a deadly weapon;
- (F) rape (IC 35-42-4-1) as a Class A felony;
- (G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;
- (H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;
- (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
- (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
- (K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
- (L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;
- (M) escape (IC 35-44-3-5) with a deadly weapon;
- (N) rioting (IC 35-45-1-2) with a deadly weapon;
- (O) unlawful possession of a firearm by a serious violent felon (IC 35-47-4-5);**
- ~~(P)~~ **(P)** dealing in cocaine or a narcotic drug (IC 35-48-4-1) as a Class A felony;
- ~~(Q)~~ **(Q)** dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the amount of controlled substance involved has an aggregate weight of three (3) grams or more;
- ~~(R)~~ **(R)** an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5; or
- ~~(S)~~ **(S)** aggravated battery (IC 35-42-2-1.5).

1 (c) Except as provided in subsection (e), whenever the court
 2 suspends a sentence for a felony, it shall place the person on probation
 3 under IC 35-38-2 for a fixed period to end not later than the date that
 4 the maximum sentence that may be imposed for the felony will expire.

5 (d) The minimum sentence for a person convicted of voluntary
 6 manslaughter may not be suspended unless the court finds at the
 7 sentencing hearing that the crime was not committed by means of a
 8 deadly weapon.

9 (e) Whenever the court suspends that part of an offender's (as
 10 defined in IC 5-2-12-4) sentence that is suspendible under subsection
 11 (b), the court shall place the offender on probation under IC 35-38-2 for
 12 not more than ten (10) years.

13 (f) An additional term of imprisonment imposed under
 14 IC 35-50-2-11 may not be suspended.

15 (g) A term of imprisonment imposed under IC 35-47-10-6 or
 16 IC 35-47-10-7 may not be suspended if the commission of the offense
 17 was knowing or intentional.

18 **(h) A term of imprisonment imposed under**
 19 **IC 35-48-4-6(b)(1)(B) may not be suspended.**

20 SECTION 6. IC 35-47-4-4 IS REPEALED [EFFECTIVE JULY 1,
 21 1998].".

22 Page 2, line 12, delete "This" and insert "**IC 35-44-2-2, as amended**
 23 **by this**".

24 Renumber all SECTIONS consecutively.
 (Reference is to SB 103 as printed January 16, 1998.)

and when so amended that said bill do pass.

Representative Dvorak